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d/b/a The Post and Courier

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Richmond Division)**

In re:	)	
	)	Chapter 11
CIRCUIT CITY STORES, INC., et al.,	)	
	)	Case No. 08-35653-KRH
Debtors.	)	
	)	(Jointly Administered)
	)	
	)	

**MOTION OF EVENING POST PUBLISHING COMPANY  
d/b/a THE POST AND COURIER FOR PAYMENT OF  
ADMINISTRATIVE EXPENSE CLAIM AND NOTICE OF HEARING**

NOW COMES Evening Post Publishing Company d/b/a The Post and Courier (“**Post and Courier**”), by and through its undersigned counsel, pursuant to Bankruptcy Code section 503(b)(1)(A), and moves the Court for allowance and payment of a Chapter 11 administrative expense claim (“**Administrative Expense Motion**”).

**JURISDICTION**

1. The Court has jurisdiction over this Administrative Expense Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this Motion is proper under 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

2. Post and Courier is a daily newspaper located in Charleston, South Carolina which provides, among other things, advertisement services to commercial entities in, among other forms, preprinted advertisements to be included as inserts with Post and Courier's newspapers.

3. Post and Courier has provided newspaper advertising services to Circuit City Stores, Inc., its predecessors or successors in interest ("**Circuit City**") since 1996. In furtherance of the provision of those advertising services on or about February 15, 2008, Post and Courier and Circuit City entered a Planned Investment Advertising Agreement (the "**Agreement**") whereby Circuit City agreed it would pay Post and Courier certain amounts based on the schedule set forth in the Agreement. *See* Attachment A.

4. Post and Courier has provided advertisement services to Circuit City pursuant to the Agreement since Circuit City filed for Chapter 11 on November 10, 2008. Specifically from the Petition Date through January 18, 2009, Post and Courier has provided Circuit City with over \$45,000.00 in advertisement services, of which \$41,652.18 remains unpaid.<sup>1</sup> *See* Attachment B.

5. The amount owed by Circuit City were actual, necessary costs and expenses of preserving Circuit City's bankruptcy estates and are unsecured debts incurred by Circuit City in the ordinary course of business.

### **RELIEF REQUESTED**

6. Section 503 of the Bankruptcy Code provides that the "actual, necessary costs and expenses of preserving the estate, including . . . [costs] for services rendered after the

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<sup>1</sup> Post and Courier reserves the right to supplement this Administrative Expense Motion with additional amounts that become due after this Motion is filed.

commencement of the case” shall be allowed as an administrative expense. 11 U.S.C. § 503(b)(1)(A).

7. In the present case, Post and Courier is entitled to a Chapter 11 allowed administrative expense claim against the Debtors’ bankruptcy estate pursuant to Section 503(b)(1)(A) of the Bankruptcy Code for the post-petition charges because Post and Courier delivered beneficial services post-petition. *See Devan v. Simon DeBartolo Group, L.P. (In re Merry-Go Round Enters., Inc.)*, 180 F.3d 149, 157 (4th Cir. 1998).

#### **WAIVER OF MEMORANDUM OF LAW**

8. Post and Courier respectfully requests that the Court treat this Motion as a written memorandum of points and authorities and waive any requirement that this Motion be accompanied by a written memorandum of points and authorities as required by Local Bankruptcy Rule 9013-1(G).

#### **CONCLUSION**

BASED UPON THE FOREGOING, Post and Courier respectfully requests that this Court enter an order: (i) granting the Motion; (ii) allowing Post and Courier a Chapter 11 administrative expense claim pursuant to Section 503(b)(1)(A) of the Bankruptcy Code in the amount of \$41,652.18; and (iii) granting such other and further relief as is just and proper.

#### **NOTICE**

**TO: CIRCUIT CITY STORES, INC. et al.**

**PLEASE TAKE NOTICE** that on April 14, 2009 at 10:00 a.m., a hearing on the Motion of Evening Post Publishing Company d/b/a The Post and Courier for Payment of Administrative Expense Claim will be held.

**YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE).**

**IF YOU DO NOT WISH THE COURT TO GRANT THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR REVIEW ON THE MOTION, YOU OR YOUR ATTORNEY MUST:**

- **FILE WITH THE COURT (UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF VIRGINIA (RICHMOND DIVISION)), 701 EAST BROAD STREET, SUITE 4000, RICHMOND, VA 23219, A WRITTEN RESPONSE WITH SUPPORTING MEMORANDUM AS REQUIRED BY LOCAL BANKRUPTCY RULE 9013-1(H). UNLESS A WRITTEN RESPONSE AND SUPPORTING MEMORANDUM ARE FILED ON OR BEFORE APRIL 7, 2009 AT 10:00 A.M., THE COURT MAY DEEM ANY OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING. IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE DATE STATED ABOVE.**
- **ATTEND THE HEARING SCHEDULED TO BE HELD ON APRIL 14, 2009, AT 10:00 A.M. AT JUDGE HUENNEKENS' COURTROOM, 701 E. BROAD STREET, ROOM 5000, RICHMOND, VIRGINIA 23219.**

**IF YOUR OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY DECIDE THAT YOU DO NOT OPPOSE THE MOTION AND MAY ENTER AN ORDER GRANTING THE MOTION.**

EVENING POST PUBLISHING COMPANY  
d/b/a THE POST AND COURIER

*/s/ W. Alexander Burnett*

By \_\_\_\_\_  
Counsel

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*Counsel for Evening Post Publishing Company,  
d/b/a The Post and Courier*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2009, a true and complete copy of the foregoing was filed and served electronically using the Court's ECF System, was sent by electronic mail to [circuitcityservice@mcguirewoods.com](mailto:circuitcityservice@mcguirewoods.com) and [project.circuitcity@skadden.com](mailto:project.circuitcity@skadden.com), and was sent by first class mail, postage prepaid, to the entities at the addresses indicated below:

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*/s/ W. Alexander Burnett*

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